IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.16897 of 2006

DATE OF DECISION: October 26, 2006

Amolak Singh

….Petitioner

VERSUS

The State of Haryana and others

…..Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri Arun Jain, Advocate for the petitioner.

Viney Mittal,J.(Oral).

The petitioner has approached this Court seeking a declaration that the action of the Commissioner, Ambala Division, Ambala, respondent No.2, in entertaining the appeal at the instance of respondents No.5 and 6 as not even maintainable under Rule 154 of the Petroleum Rules, 2002. A further challenge has been made to the order dated October 17, 2006 passed by the Commissioner, Ambala Division, Ambala, whereby the order dated October 10,2006 passed by the District Magistrate, Ambala has been stayed whereby a representation filed by respondents No.5 and 6 had been dismissed, considering the reply of Bharat Petroleum Corporation Limited as satisfactory. As a result thereof, the District Magistrate had withdrawn the show cause notice dated April 27, 2006, issued earlier.

Shri Arun Jain, the learned counsel appearing for the petitioner has vehemently contended that as per Rule 154 of the

Petroleum Rules, 2002, no appeal is competent against the order of District Magistrate whereby a show cause notice issued to the company had been ordered to be withdrawn. It has also been pointed out by the learned counsel for the petitioner that the company as well as the petitioner are already running a retail outlet at the site in question and the stay of the order dated October 10,2006 of the District Magistrate, by the Commissioner has resulted in a very anomalous situation whereby the authorities are taking action for closure of the aforesaid retail outlet.

After hearing the learned counsel for the petitioner at some length and taking into consideration the averments made in the present petition, but without offering any comments on the same, we dispose of the present petition with a liberty to the petitioner to raise the objection with regard to the jurisdiction of the Commissioner, in the proceedings of appeal pending before the Commissioner itself at the first instance.

For the aforesaid purpose, the petitioner would be at liberty to file a detailed and comprehensive written submissions/ objections before the Commissioner, within a period of one week from the date a certified copy of this order is received. On receipt of the aforesaid written submissions/ objections, the Commissioner, at the first instance shall deal with the question of jurisdiction and

maintainability of appeal, before proceeding on the merits of the appeal filed by respondents No.5 and 6.

Till the matter with regard to the question of jurisdiction and maintainability of appeal are finally decided by the Commissioner, the order dated October 10,2006 issued by the District Magistrate, Ambala shall continue to operate, with the result that the stay thereof granted by the Commissioner on October 17, 2006 shall be treated as non-operative.

However, we make it clear that if the written submissions/objections are not filed within the aforesaid stipulated period, then the protection granted to the petitioner shall automatically stand lapsed and the present petition shall be deemed to have been dismissed.

A copy of the order be given dasti on payment of usual charges.

(Viney Mittal)
Judge

October 26, 2006
KD

(H.S. Bhalla)
Judge